PA 23-79—sHB 6699
General Law Committee

AN ACT CONCERNING CANNABIS REGULATION

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SUMMARY: This act makes various changes to the laws around adult-use cannabis, hemp, and medical marijuana. Among other things, it:

1. establishes a "high-THC hemp product" category and classifies it as marijuana or cannabis, thus subjecting it to various licensing and regulatory requirements (e.g., must be sold only by licensed establishments, tested, and sold only to those age 21 or older except under the medical marijuana program);
2. differentiates between laboratories for controlled substances and those for cannabis (i.e., marijuana);
3. expands who may serve as a medical marijuana caregiver by allowing those with certain controlled substances convictions to serve and allowing those with a grandparent or spousal relationship with a patient to care for more than one qualifying patient at a time;
4. expands the definition of cannabis flower to include the flower being chopped or ground and specifies that "cannabis products" contain at least one other ingredient;

5. modifies the criteria and procedure used to identify disproportionately impacted areas used as a qualification for cannabis social equity purposes under the Responsible and Equitable Regulation of Adult-Use Cannabis Act (RERACA);
6. defines "control" under RERACA and modifies the amount of control individuals must have in a cannabis business to qualify as a "social equity applicant," "social equity partner," and "equity joint venture";
7. adds more labeling and packaging requirements, including requiring that packages be tamper- and light-resistant; limiting the package's colors; prohibiting packaging from being similar to products that do not contain cannabis; and adding more warnings;
8. allows product manufacturers to manufacture edible cannabis products with the Department of Consumer Protection's (DCP) approval;
9. requires DCP to make quarterly reports on certain statistics and estimates on cannabis lotteries and licenses and establishes a task force to study the potential health, safety, and financial impact of allowing individuals who cultivate cannabis in their residences to sell, at retail, the cannabis at events;
10. makes various changes to DCP adult-cannabis application, lottery, and equity joint venture provisions, such as specifying the confidentiality and permissible disclosures of application materials;
11. requires DCP to publish a list of bona fide labor organizations for purposes of cannabis laws and sets criteria for unions to be included on the list;
12. allows certain professional services to advertise cannabis or cannabis-related services and expands the billboard advertising prohibition between certain hours to all billboards, not just electronic or illuminated ones;
13. requires manufacturer hemp (i.e., intended for human ingestion, inhalation, absorption, or other internal consumption) to have certain warnings and disclosures on the packaging and allows manufactuer hemp that fails a laboratory test to be retested before disposal;
14. establishes the Office of the Cannabis Ombudsman within the healthcare advocate's office and requires the ombudsman to, among other things, represent the interests of qualifying medical marijuana patients and caregivers; and
15. makes various other minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2023, unless otherwise specified below.

§§ 1 & 45-46 — HIGH-TETRAHYDROCANNABINOL (THC) HEMP PRODUCTS AND POLICE TRAINING

Establishes the category of "high-THC hemp product" and classifies it as marijuana or cannabis, thus subjecting it to various licensing and regulatory requirements; requires DESPP to publish a training bulletin for cannabis and high-THC hemp products; requires POST and the Division of Criminal Justice to include in existing annual training, a session on investigating and enforcing standards for cannabis and high-THC hemp products

The act establishes the category of "high-THC hemp product" and classifies it as marijuana or cannabis, thus subjecting it to various licensing and regulatory

requirements (e.g., must be sold only by licensed establishments, tested, and sold only to those age 21 or older except under the medical marijuana program).

Under the act, a "high-THC hemp product" is a manufacturer hemp product that has (or is advertised, labeled, or offered as having) a total THC that exceeds the following:

1. for a hemp edible, topical, or transdermal patch: (a) one milligram on a per-serving basis or (b) five milligrams on a per-container basis;
2. for a hemp tincture, including oil intended for ingestion by swallowing, buccal administration (i.e., between the gums and mouth cheek), or sublingual absorption (i.e., placing under tongue to dissolve): (a) one milligram on a per-serving basis or (b) 25 milligrams on a per-container basis;
3. for a hemp concentrate or extract, including a vape oil, wax, or shatter: 25 milligrams on a per-container basis; or
4. for a manufacturer hemp product not described above: (a) one milligram on a per-serving basis, (b) five milligrams on a per-container basis, or (c) 0.3% on a dry-weight basis for cannabis flower or cannabis trim.

The act also modifies the marijuana and cannabis definitions to replace hemp products that exceed 0.3% total THC concentration on a dry-weight basis with high-THC hemp products. It also makes this change for the exemption for cannabidiol derived from hemp, by specifying that high-THC hemp products are not included within this exemption. Correspondingly, the act removes the prior exemption stating that marijuana does not include manufacturer hemp products.

Police Training on High-THC Hemp Products and Cannabis

The act requires, by October 31, 2023, the Department of Emergency Services and Public Protection (DESPP), in consultation with DCP, to publish a training bulletin, informing local law enforcement agencies and officers of the investigation and enforcement standards concerning cannabis and high-THC hemp products.

Existing law requires the Police Officer Standards and Training Council (POST), in conjunction with the chief state's attorney's office, among others, to annually provide instruction on new legal developments related to policing to the chief law enforcement officer of each municipality and certain designated individuals. By October 31, 2023, and annually thereafter if needed, the act requires the Division of Criminal Justice and POST to include in each course of instruction, a session on investigation and enforcement standards concerning cannabis and high-THC hemp products.

§§ 11, 14-19, 29-32, 34-39 & 42 — CANNABIS TESTING LABORATORIES

Differentiates between laboratories for controlled substances and those for cannabis and establishes statutory license fees for these laboratories; requires DCP to adopt regulations for laboratories to test marijuana samples from certain individuals; allows DCP to waive minimum security or safeguard requirements; prohibits applicants who are denied a license or registration from applying for certain credentials for a year

The act differentiates between laboratories for controlled substances and those for cannabis (i.e., marijuana) by renaming the latter as "cannabis testing laboratories." It makes corresponding changes for laboratory employees to rename them as cannabis testing laboratory employees. The act also makes various minor, technical, and conforming changes to effectuate these new names.

Under the act, any individual or entity who obtained a DCP license by June 30, 2023, which is still active on July 1, 2023, as a laboratory authorized to do cannabis testing may act as a cannabis testing laboratory. Under these conditions, the laboratory licensee is deemed to be a licensed cannabis testing laboratory for the duration of the prior license and is eligible for renewal as a cannabis testing laboratory when the license expires.

Similarly, the act allows those with a laboratory employee credential to be deemed a registered cannabis testing laboratory employee and renew under the same conditions as laboratories.

License Fees

The act establishes a provisional license for a cannabis testing laboratory, which has a $500 fee, and a final license and renewal fee of $1,000. By regulation, a medical marijuana laboratory had a license and renewal fee of $200 (Conn. Agencies Regs., § 21a-408-29).

The act also makes a conforming change by eliminating the requirement that DCP regulations establish a licensing and renewal fee.

Regulations

Existing law requires the DCP commissioner to adopt regulations on certain laboratory standards. The act also requires him to adopt regulations setting procedures for cannabis testing laboratories to accept medical marijuana samples from caregivers, qualifying patients, and consumers (i.e., someone at least age 21) for testing.

Correspondingly, the act allows a cannabis testing laboratory or employee to acquire marijuana from these people provided the sample is acquired under the regulations.

Security or Safeguard Requirements

The act allows DCP to waive any minimum security or safeguard requirements for a cannabis testing laboratory under certain conditions. A laboratory must submit a written request in a commissioner-prescribed form proposing an equally safe alternative. DCP may issue a written waiver if it determines that the proposed alternative provides equal or greater protection for public health and safety. In allowing the alternative, DCP must assess the potential for product diversion, theft, and criminal activity under the proposed alternative and the likely impact that waiving the minimum security or safeguard requirement will have on public health and safety.

License and Registration Denials

By law, if the DCP commissioner denies a cannabis license or registration and the denial was sustained after a hearing, an applicant may not, for one year after the denial, apply for a cannabis establishment, backer, or key employee license or an employee registration. The act also prohibits the applicant from applying for a cannabis testing laboratory license or cannabis laboratory employee registration for one year.

§ 12 — MEDICAL MARIJUANA PATIENT CAREGIVERS

Expands who may serve as a caregiver for a medical marijuana patient by allowing people with certain controlled substances convictions to serve; allows caregivers with a grandparent or spousal relationship to care for more than one qualifying patient at a time

The act expands who may serve as a caregiver for a medical marijuana qualifying patient by allowing those who have been convicted of a violation of any law related to the illegal manufacture, sale, or distribution of controlled substances to serve in this role. Prior law prohibited them from serving.

The act also allows caregivers with a grandparent or spousal relationship with the patient to care for more than one qualifying patient at a time. Existing law already allows those with a parental, guardianship, conservatorship, or sibling relationship to do so. By law, a caregiver is someone at least age 18, other than the patient or the patient's health care professional (e.g., physician), who is responsible for managing the patient's well-being with respect to medical marijuana use (CGS § 21a-408).

§ 19 — CANNABIS DEFINITIONS

Expands the definition of cannabis flower to include the flower being chopped or ground; excludes chopping or grinding as a form of processing for cannabis trim; specifies that "cannabis products" contain at least one other ingredient

The act modifies certain definitions under RERACA, including expanding "cannabis flower" to include the flower being chopped or ground and specifying that "cannabis products" contain at least one other ingredient or component.

Under prior law, a "cannabis flower" was the flower of a plant of the genus cannabis (including abnormal and immature flowers) that had been harvested, dried, and cured, and before it was processed and transformed into a cannabis product, but did not include the plant's leaves or stem. The act expands the definition by requiring only one specified action (e.g., harvested, dried, or cured under prior law), rather than all of them. It also expands the list of actions to include the flower of the plant that has been chopped or ground.

Under prior law, "cannabis trim" included all parts (including abnormal or immature parts) of the cannabis plant, other than cannabis flower, that had been harvested, dried, and cured, and before it was processed and transformed into a cannabis product. The act excludes chopping or grinding as a form of processing.

Under prior law, a "cannabis product" included cannabis in the form of a product that contained cannabis, which could be combined with other ingredients, and was intended for use or consumption. The act instead defines it as any product intended for use or consumption containing cannabis and at least one other cannabis or noncannabis ingredient or component. It also narrows an exclusion from the "cannabis product" definition by excluding cannabis flower rather than the raw cannabis plant as under prior law.

The act also adds a definition of "edible cannabis product" (see §§ 35 & 41 below).

§§ 19 & 39 — KEY EMPLOYEES

Updates the scope of duties of a cannabis establishment's financial manager; limits criminal history checks to key employees, managers, and owners of a cannabis establishment or cannabis laboratory

Financial Manager

Under prior law, a cannabis establishment's financial manager was a key employee who was generally responsible for overseeing a cannabis establishment's financial operations, including various tasks (e.g., revenue generation). The act redefines the scope of the manager's duty by specifying that the financial operations under this person's oversight include one or more of the following: (1) revenue and expense management, (2) distributions, (3) tax compliance, (4) budget development, or (5) budget management and implementation. Prior law specified a generally similar, but non-exclusive, list of financial operations (e.g., prior law included revenue generation rather than revenue and expense management).

By law, key employees (i.e., those in management positions) must be at least age 21 and have a DCP license.

Criminal Background Check

Under prior law, the DCP commissioner had to generally require all individuals listed on an application for a cannabis establishment license, laboratory or research program license, or key employee license to submit to fingerprint-based state and national criminal history checks before issuing the initial license. The act limits this background check requirement to key employees, managers, and owners of applicants for a cannabis establishment or cannabis testing laboratory license. Similar to prior law, it allows the commissioner to require background checks for renewal applications.

By law, DCP must charge the applicant a fee equal to the amount the department is charged to do these checks.

Under the act, an "applicant" is an entity applying for a license and an "owner" is an individual with more than 5% ownership interest in an applicant. A "manager" is an individual who is not a key employee and has an ownership interest in, and executive control of, an applicant. "Executive managerial control" is the authority or power to direct or influence the applicant's direction or operation through

agreement, board membership, contract, or voting power.

Under the act, a key employee, manager, or owner must be denied a license if the key employee's background check reveals a disqualifying conviction. By law, a disqualifying conviction is a conviction in the last 10 years of certain offenses (e.g., certain fraud-related crimes).

§§ 19 & 21 — DISPROPORTIONATELY IMPACTED AREAS

Modifies the criteria and procedure used to identify disproportionately impacted areas used as a qualification for cannabis social equity purposes under RERACA

The act modifies the criteria and process used to identify "disproportionately impacted areas" under RERACA. It replaces the prior unemployment rate and historical drug conviction metrics used to identify eligible census tracts with a calculation based on (1) a poverty rate metric and (2) ranking of historical conviction rates for drug-related offenses by census tract. The act also eliminates the requirement that the Social Equity Council annually determine and publish its list of disproportionately impacted areas, instead requiring the council to do so only once, by August 1, 2023.

Definition

Under prior law, a "disproportionately impacted area" was a U.S. census tract in the state that had, as determined by the Social Equity Council, (1) a historical conviction rate for drug-related offenses greater than 10% or (2) an unemployment rate greater than 10%. Beginning August 1, 2023, the act instead defines the area as a U.S. census tract in the state that the council identifies using the process below.

Identification Process

Prior law required the Social Equity Council, annually by August 1, to identify one or more disproportionately impacted areas and publish a list of them on the council's website. To do so, the council had to use the most recent five-year U.S. Census Bureau American Community Survey estimates or any successor data.

The act instead requires the council, by August 1, 2023, to use poverty rate data from the same most recent census survey estimates, population data from the most recent decennial census, and conviction information from DESPP's databases to identify all U.S. census tracts in the state that are disproportionately impacted areas. The council must publish a list of these tracts on its website.

Rankings

Under the act, when identifying and preparing the list of disproportionately impacted areas, the council must:

1. exclude any census tract with a poverty rate that is less than the statewide poverty rate;
2. rank the remaining tracts in order, from greatest to least, based on their

historical conviction rate for drug-related offenses; and
3. include census tracts in the order of rank described above until including the next tract would cause the total population of all included tracts to exceed 25% of the state's population.

By law, the "historical conviction rate for drug-related offenses" is, for a given area, the historical conviction count for certain drug offenses divided by the area's population, as determined by the five-year estimates of the U.S. Census Bureau's most recent American Community Survey. The historical conviction count is the number of drug manufacture, sale, possession, and paraphernalia convictions among residents for arrests between January 1, 1982, and December 31, 2020, that are recorded in databases maintained by DESPP.

§§ 19 & 27 — "CONTROL" UNDER RERACA

Defines "control" under RERACA and modifies the amount of control individuals must have in a cannabis business to qualify as a "social equity applicant," "social equity partner," and "equity joint venture"

The act defines "control" under RERACA to mean, unless the context otherwise requires, the direct or indirect power to direct, or cause the direction of, a cannabis establishment's management and policies. In doing so, the act modifies how control is determined for individuals in a cannabis business to qualify as a "social equity applicant," "social equity partner," and "equity joint venture" by amending these definitions (see *Background*).

Under prior law, (1) a social equity applicant and partner was a person (e.g., an individual or business) that was at least 65% owned and controlled by an individual or individuals meeting certain income and residency criteria and (2) an equity joint venture was a business entity that was at least 50% owned and controlled by an individual or applicant meeting the social equity applicant income and residency criteria. Instead of having these percentage thresholds for control, the act requires that the individual have the direct or indirect power to direct, or cause the direction of, a cannabis establishment's management and policies. As under prior law, the individual must also own at least 65% or 50% of the business, as applicable.

Background

Social Equity Applicant and Partner. By law, to qualify as a "social equity applicant" or "social equity partner," an individual must have (1) had average household income of less than 300% of the state median over the three tax years immediately before the application and (2) been a resident of a disproportionately impacted area for at least (a) five of the 10 immediately preceding years or (b) nine years before he or she turned age 18.

Under certain conditions, a medical marijuana producer seeking to expand into the adult-use market may enter into an agreement with a social equity partner to provide the partner 5% of the grow space to establish a social equity business (CGS § 21a-420*l*).

Equity Joint Venture. By law, equity joint ventures partnering with a licensed

producer, cultivator, or dispensary facility pay reduced fees. Additionally, equity joint ventures are not subject to the lottery.

§§ 19 & 41 — LABELING AND PACKAGING

Adds cannabis labeling and packaging requirements, including requiring packages to be tamper- and light-resistant, limiting the packages' colors, and requiring additional warnings; prohibits packaging from being similar to products that do not contain cannabis

Under existing law, the cannabis-related regulations that the DCP commissioner must adopt must include specified labeling and packaging requirements. The act modifies one of these requirements and adds multiple requirements, as described below.

Labeling and Packaging Requirements

Universal Symbol. Under prior law, DCP's regulations had to (1) require that cannabis or cannabis product labeling and packaging include a universal symbol to indicate that a product contains cannabis and (2) prescribe how the product and packaging must use and exhibit the symbol. The act eliminates the requirement that the cannabis or cannabis product label or package include symbols to indicate it contains cannabis. The act instead requires that the labeling and packaging indicate that the cannabis or cannabis product contains THC and is not legal or safe for individuals younger than age 21.

Resistance and Sealing. Existing law requires that the packaging be child-resistant, including a requirement that an edible product be individually wrapped. The act also (1) requires that the packaging be tamper- and light-resistant and (2) specifies how each of these requirements must be met.

Under the act, a package is deemed to be:

1. child-resistant if it satisfies the federal standard for special packaging (i.e., designed or constructed to be significantly difficult for children under age five to open within a reasonable time, but not difficult for normal adults to use (16 C.F.R. § 1700.1(b)(4)));
2. tamper-resistant if the packaging has at least one barrier to, or indicator of, entry that would prevent its contents from being accessed or adulterated without indicating to a reasonable person that it had been breached; and
3. light-resistant if the packaging is entirely and uniformly opaque and protects all of its contents from the effects of light.

The act also requires:

1. that packaging for cannabis intended for multiple servings be resealable in a way that makes it continuously child-resistant and preserves the contents' integrity, and
2. impervious packaging that protects the contents from contamination and exposure to any toxic or harmful substance, including any glue or other adhesive or substance incorporated in the packaging.

Cannabis Content-Related Information

Potency and Chemotypes. The act requires that the labeling and packaging for any cannabis concentrate cannabis product whose total THC percentage exceeds 30% include a warning that the product has high potency and may increase the risk of psychosis.

The act also requires information about chemotypes (i.e., chemically distinct composition differences), which must be displayed as follows:

1. "High THC, Low CBD" where the THC to CBD ratio is greater than five to one and the total THC percentage is at least 15%;
2. "Moderate THC, Moderate CBD" where the ratio of THC to CBD is at least one to five, but not greater than five to one, and the total THC percentage is between 5% and 15%;
3. "Low THC, High CBD" where the ratio of THC to CBD is less than one to five and the total THC percentage is less than 5%; or
4. the chemotype described above that most closely fits the cannabis or cannabis product, as determined by mathematical analysis of the ratio of THC to CBD.

Unique Identifier. The act requires that cannabis packaging be clearly labeled with a unique identifier before being sold and transferred to a consumer or a qualifying medical marijuana patient or caregiver. The identifier must be (1) printed directly on the package or affixed on a separate label, other than an extended content label and (2) generated by a cannabis analytic tracking system DCP maintains and uses to track cannabis under the policies, procedures, and regulations.

Package Contents. Under the act, the package must include the following information on the cannabis contained in it. The information must be in legible English, black lettering, Times New Roman font, flat regular typeface, on a contrasting background, and in uniform size of not less than one-tenth of one inch, based on a capital letter "K." The following information must also be available on the cannabis establishment's website:

1. the cannabis name, as registered with DCP under the policies, procedures, and regulations;
2. the expiration date, which must not account for any refrigeration after the cannabis is sold and transferred to the consumer, qualifying patient, or caregiver;
3. the net weight or volume, expressed in metric and imperial units;
4. the standardized serving size, expressed in customary units, and the number of servings included, if applicable;
5. directions for use and storage;
6. each active ingredient, expressed in metric units and as a percentage of volume, comprising at least 1% of the cannabis, including cannabinoids; isomers; esters; ethers; salts; and salts of isomers, esters, and ethers;
7. a list of all known allergens, as identified by the federal Food and Drug Administration (FDA), contained in the cannabis, or the denotation "no known FDA identified allergens" if that is the case;
8. the following warning statement within, and outlined by, a red box:

"This product is not FDA-approved, may be intoxicating, cause long-

term physical and mental health problems, and have delayed side effects. It is illegal to operate a vehicle or machinery under the influence of cannabis. Keep away from children.";

9. at least one of the following warning statements, rotated quarterly on an alternating basis:

   "Warning: Frequent and prolonged use of cannabis can contribute to mental health problems over time, including anxiety, depression, stunted brain development and impaired memory."

   "Warning: Consumption while pregnant or breastfeeding may be harmful."

   "Warning: Cannabis has intoxicating effects and may be habit-forming and addictive."

   "Warning: Consuming more than the recommended amount may result in adverse effects requiring medical attention.";
10. all information necessary to comply with labeling requirements imposed under state or federal law, including the state Uniform Food, Drug and Cosmetic Act (CGS §§ 21a-91 to 21a-120), state Bakeries, Food Manufacturing Establishments and Food Warehouses law (CGS §§ 21a-151 to 21a-159), the federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.), and the federal Fair Packaging and Labeling Act (15 U.S.C. § 1451 et seq.) for similar products that do not contain cannabis; and
11. any additional warning labels for certain cannabis products as the commissioner may require and post on DCP's website.

Visual Requirements

The act requires that the policies, procedures, and regulations prohibit packaging that is (1) visually similar to any commercially similar product that does not contain cannabis, or (2) used for any good that is marketed to individuals reasonably expected to be under age 21.

The regulations, policies, and procedures must allow packaging to include a picture of the cannabis product and contain a logo of one cannabis establishment. The logo may be comprised of up to three colors besides black and white. The packaging must be entirely and uniformly one color and must not incorporate any information, print, embossing, debossing, graphic, or hidden feature, other than any permitted or required label.

The act requires edible cannabis product packaging and labeling to be entirely black and white or a combination of them. This does not apply to the warning labels and picture described above, but includes the cannabis establishment's logo.

The act requires that delivery device cartridges (e.g., vape pens) be labeled, in a clear and legible manner and in as large a font as the device reasonably allows with only certain information. This includes:

1. the cannabis establishment name where the cannabis is grown or manufactured,
2. the cannabis brand,
3. the total THC and total CBD content contained within the cartridge,

4. the expiration date, and
5. the unique identifier generated by DCP's cannabis analytic tracking system.

The act additionally allows a cannabis establishment to emboss, deboss, or similarly print the name of the establishment's business entity, and one logo with up to three colors, on a delivery device cartridge.

Under the act, for the purposes of RERACA, "edible cannabis product" means a cannabis product intended for human consumption. Under existing law, the commissioner's policies, procedures, and regulations must generally limit the standard serving of an edible cannabis product (other than a medical marijuana product) to five milligrams of THC.

(PA 23-166, § 7, delayed the effective date of the labeling and packaging provisions from July 1, 2023, to October 1, 2023.)

§§ 19, 23 & 34-35 — PRODUCT AND FOOD AND BEVERAGE MANUFACTURERS

Allows a product manufacturer to expand its authorized activities to include the authorized activities of a food and beverage manufacturer and vice versa, with DCP approval; requires product manufacturers, when manufacturing edible products, to use equipment that is sanitary and regularly inspected, and to label all edible cannabis products

The act allows a product manufacturer to expand its authorized activities to include the authorized activities of a food and beverage manufacturer and vice versa. In both cases, the manufacturers must receive DCP written approval and the expansion must be done under certain conditions.

The act requires the manufacturer to submit to DCP a completed license expansion application in a commissioner-prescribed form with the expansion fee. Under the act, for a food and beverage manufacturer seeking to expand its activities, the application and renewal fee is $25,000. For a product manufacturer seeking to expand, the application and renewal fee is $5,000. These fees are in addition to the licensing fees for the respective licenses.

A manufacturer that expands its operations must comply with all provisions related to the expanded activities, including applicable laws, regulations, policies, and procedures. If there is a conflict between any provisions, the provision that imposes the more stringent public health and safety standard prevails.

Product Manufacturers

The act requires product manufacturers to label all edible cannabis products and have all equipment it uses to manufacture these products be sanitary and regularly inspected. These actions must be done in accordance with all applicable requirements of the (1) adult cannabis laws, regulations, policies, and procedures; (2) U.S. Department of Agriculture; and (3) FDA.

§ 20 — DCP REPORT ON LOTTERY AND CANNABIS LICENSES

Requires DCP to make quarterly reports for three years beginning October 1, 2023, to the governor and General Law Committee on certain statistics and estimates on the cannabis establishment lotteries and licenses

Between October 1, 2023, and October 1, 2026, the act requires DCP to submit a report by the first day of January, April, July, and October on certain statistics and estimates on the cannabis establishment lotteries and licenses. DCP must submit the report to the governor and the General Law Committee.

The report must include, for the quarter ending on the last day of the month immediately before the day DCP submits the report:

1. the number of applicants that were selected from the lottery, broken down by license type;
2. the number of provisional and final licenses that DCP issued under RERACA, broken down by license type, and by town and county for final licenses; and
3. the mechanism by which DCP issued each license under RERACA, including by lottery, to equity joint ventures, and to cultivators located in disproportionately impacted areas.

The report must also include DCP's good faith estimate on anticipated increases in the number of cannabis establishments during the next calendar year and any other information the department deems appropriate.

§ 22 — DCP APPLICATION

Allows DCP to accept dispensary facility and producer applications after the Social Equity Council identifies certain criteria; generally prohibits those with access to cannabis establishment applications and related materials from disclosing certain information, subject to certain exceptions

Dispensary Facility and Producer Applications

Prior law allowed DCP to accept applications for certain cannabis licenses within 30 days after the Social Equity Council identified the criteria for social equity applicants. The act expands the list of allowable applicants to include dispensary facilities and producers. As under existing law, applicants must indicate whether they want to be considered for treatment as a social equity applicant.

For dispensary facility licenses, the fee to enter the lottery is $500, and the fee for a provisional or final license or license renewal is $5,000. For producer licenses, the fee to enter the lottery is $1,000, the fee for a provision license is $25,000, and the fee for a final license or license renewal is $75,000. These license and renewal fees are the same as those under existing regulations (Conn. Agencies Regs., § 21a-408-29). The act makes a conforming change by eliminating the requirement that the DCP commissioner adopt regulations setting dispensary facility licensing fees meeting certain criteria (§ 13, effective July 1, 2023).

The act specifies that a producer that is approved for expansion into the adult use cannabis market pays the same renewal amount of $75,000, which the act also statutorily sets.

Application Information Disclosure

The act generally prohibits current or former state officers or employees, or employees of anyone who had access to a submitted application, to disclose the application or any information included in or submitted with it.

Under the act, the commissioner may disclose the following information about a submitted application:

1. the applicant's name, address, and social equity designation, if any;
2. the license type for which the application was submitted;
3. the applicant owner's name, e-mail address, and telephone number;
4. the ownership interest that an owner of a social equity applicant holds in the applicant, expressed as a percentage of all ownership interests in the applicant;
5. the name and address of the person serving as the applicant's primary business contact;
6. the application number assigned to the application;
7. the date the application was submitted to DCP;
8. information on the applicant's formation, including the applicant's business entity type, formation date and place, and business registration number as it appears on the secretary of the state's electronic business portal; and
9. the name of all cannabis businesses associated with the applicant and listed on the application.

In addition to the information described above, the commissioner may, in his sole discretion, disclose any personal information or financial document associated with a submitted application to:

1. a federal, state, or local government agency acting in the course of its governmental functions, or a person acting on behalf of the agency in performing these functions;
2. a college or university conducting research or assisting the state in reviewing applications, if it agrees not to disclose any personally identifying information or confidential business information and deidentifies any personal or financial information it receives from DCP before releasing any related report, study, survey, or similar document;
3. a court officer in connection with an administrative, arbitration, civil, or criminal proceeding in a court or before a government agency or self-regulatory body, including serving process, performing an investigation in anticipation of litigation, an order or the execution or enforcement of a court judgment or order, provided the person given the information or document is a party in interest to the proceeding;
4. a state marshal while performing his or her duties; or
5. the applicant or the applicant's owner to confirm the accuracy of any information or document the applicant or owner submitted in connection with the application.

Under the act, any personal information or financial document the commissioner discloses to these entities or officials must remain confidential. In addition, the act prohibits anyone receiving this information or documentation from

the commissioner from further distributing it in a way that allows another person to identify any person referenced in, and related to, the information or document, unless this disclosure is required under other applicable law.
EFFECTIVE DATE: Upon passage

§ 24 — PREVENTION AND RECOVERY SERVICES FUND

Specifies that money from the Prevention and Recovery Services Fund may be appropriated for certain services preventing youth cannabis use and developing a public awareness campaign of the mental and physical risks of cannabis use by youths and use during pregnancy

Under existing law, the Prevention and Recovery Services Fund is a separate, nonlapsing fund that must be appropriated for (1) substance abuse data collection and analysis and (2) substance abuse prevention, treatment, and recovery services. The act specifies that these services may include, among other things, (1) providing youth cannabis prevention services by local advisory councils on drug use and prevention that a municipality established under the federal Drug Free Schools and Communities Act of 1986, regional behavioral health action organizations, or youth service bureaus and (2) developing a public awareness campaign to raise awareness of the mental and physical health risks of cannabis use by youths and use during pregnancy.

§ 25 — SOCIAL EQUITY LOTTERY

Generally prohibits applicants from applying more than once in any application period; allows social equity applicants to remove backers subject to Social Equity Council approval and makes minor changes to provisions on lottery rankings and application completeness; extends the expiration date, from 14 to 24 months, for most existing provisional licenses

Rankings

The act eliminates a duplicative requirement that the third-party lottery operator rank applications numerically from one to the maximum number DCP sets. As under existing law, the operator must still rank all applications numerically in the order they were drawn, including those that exceed the number to be considered.

One Application per Business

The act prohibits applicants from applying more than once in any application period to the social equity lottery round, if applicable, or the general lottery. It requires a business entity applicant to register as such with the secretary of the state to do business in the state before applying. The applicant must include an attestation of doing so in the application.

Under the act, DCP must review the list of lottery applicants for each lottery independently for each round to determine whether any applicant has submitted more than one application under the same name. With one exception, DCP must disqualify all submitted applications by an applicant if it determines that an applicant has submitted more than one application in the social equity or general

lottery round. DCP must remove the application from the pool of eligible applications it provides the third-party lottery operator for selection in the round.

The act allows a social equity applicant to have two entries in the general lottery round, if one of the entries is because he or she was not selected through the social equity lottery process and was subsequently placed into the general lottery. But the applicant is not eligible to receive more than one license from any round of the general lottery. If the applicant is selected twice in the general lottery, DCP must disqualify the second selection and request that the lottery operator identify the next-ranked application.

Under the act, a disqualification under these provisions does not result in a refund of lottery fees.

An "application period" means the established period when DCP may accept applications for a specific license type for the social equity or general lottery. "Round" means each time a lottery is run to determine the ranking of applicants after an application period concludes, for either lottery.

Determination of Ownership Cap

Prior law required the Social Equity Council to determine whether any application included a backer that would result in a common ownership violation of having two or more licenses in the same license type or category. The act expands this determination to include whether the lottery applicant has two or more licenses or includes a backer with managerial control over two such licenses. By law, this cap is in effect until June 30, 2025, and the following are considered the same license category: (1) a dispensary facility, retailer, and hybrid retailer license and (2) producer, cultivator, and micro-cultivator license (CGS § 21a-420i).

Backer Removal

Under prior law, an applicant could remove a backer before the application was submitted for a final license, unless the removal would result in a social equity applicant no longer qualifying as such. The act allows (1) social equity applicant removals as long as any change to a social equity applicant is reviewed and approved by the Social Equity Council before being reviewed by DCP and (2) backers to be removed from a cannabis establishment application selected through the general lottery at any time with notice to DCP.

Provisional Licenses

The act extends the expiration date, from 14 to 24 months, for provisional licenses DCP issues on or before June 30, 2023, other than for cultivator licenses for social equity applicants. As under prior law, such licenses that are issued on or after July 1, 2023, expire after 14 months. As under existing law, a provisional license may not be renewed.

EFFECTIVE DATE: Upon passage

§§ 26, 28 & 33 — EQUITY JOINT VENTURES

Prohibits equity joint ventures that are retailers or hybrid retailers that share certain common owners from being located within 20 miles from one another; specifies that equity joint ventures created by converting dispensary facilities are not subject to the lottery

Location Limitation

Prior law prohibited equity joint ventures that shared a common cultivator or backer from being located within 20 miles of another commonly owned equity joint venture. It also prohibited equity joint ventures that were retailers or hybrid retailers that shared a common producer or backer, or dispensary facility or backer or owner, from being located within 20 miles of another commonly owned equity joint venture.

The act instead prohibits equity joint ventures that are retailers or hybrid retailers from being located within 20 miles of each other if they share a (1) common cultivator backer or owner, (2) producer backer or owner, (3) dispensary facility backer or owner, or (4) hybrid retailer or owner.

Lottery Exemption

Under existing law, upon the Social Equity Council's written approval, equity joint venture applications created by a disproportionately impacted area cultivator or producer expanding its license are not subject to the lottery (CGS §§ 21a-420j & -420m). The act specifies that this exemption also applies to dispensary facilities converting to hybrid retailers who create an equity joint venture.

§ 36 — PRODUCT PACKAGER

Specifies that product packagers must use their own employees or a transporter when obtaining cannabis from certain cannabis establishments and allows packagers to sell, transfer, or transport cannabis to and from certain places, rather than just to them

The act specifies that a product packager must use its own employees or a transporter when obtaining cannabis from a producer, cultivator, micro-cultivator, food and beverage manufacturer, or product manufacturer. (A transporter is a person licensed to transport cannabis between cannabis establishments, laboratories, and research programs.)

Prior law allowed a product packager to sell, transfer, or transport cannabis to any cannabis establishment, laboratory, or research program if the packager only transported cannabis packaged at its own establishment and used its own employees or a transporter. The act allows the packager to perform these actions to and from these places.

§ 37 — DELIVERY SERVICES

Limits the requirement that delivery services only use full-time employees to those with 12 or more delivery employees, but specifies that they must still enter into a labor peace agreement with a bona fide labor organization

Prior law required a delivery service to use full-time employees (i.e., those who work at least 35 hours a week) to deliver cannabis. The act limits this requirement only to services that employ at least 12 individuals to deliver cannabis. By law and unchanged by the act, these employees must be registered with DCP, and a service may not employ more than 25 delivery employees at a time. The act specifies that none of its delivery services provisions excuse a service from the requirement that it enter into a labor peace agreement with a bona fide labor organization (see § 40 below).

§ 40 — BONA FIDE LABOR ORGANIZATION

Requires DCP to establish a list of bona fide labor organizations for purposes of cannabis laws, and sets criteria for unions to be included on the list; requires unions to make certain attestations regarding their practices and affiliations

By law, each provisional cannabis establishment licensee, dispensary facility, or producer, as a condition of its final license approval, license conversion, or approval for expanded authorization, must enter into a labor peace agreement with a "bona fide labor organization."

Under prior law, a bona fide labor organization was a labor union that (1) represented employees in this state regarding wages, hours, and working conditions; (2) had officers who were elected by a secret ballot or in another way consistent with federal law; (3) was free of any employer domination or interference and had not received any improper assistance or support from the employer; and (4) was actively seeking to represent cannabis workers in the state.

DCP List

For labor peace agreements entered into on and after October 1, 2023, the act redefines a "bona fide labor organization" as a labor union that is included on a list that DCP establishes and periodically updates. By that date, the act requires DCP to establish a list of labor unions that are actively seeking to represent cannabis workers in Connecticut and satisfy certain criteria that have certain similarities to what is required under prior law.

By September 1, 2023, the act requires DCP to accept applications from a labor union to be included on the list. Any labor union that wants to be included must apply to DCP on a form it prescribes.

Criteria

As part of the application, the labor union must attest, under penalty of false statement, that the union is actively seeking to represent cannabis workers in the state and satisfies at least two of the following criteria:

1. represents employees in this state with regard to wages, hours, and working conditions;
2. has been recognized or certified as the bargaining representative for cannabis employees employed at cannabis establishments in this state;
3. has executed one or more collective bargaining agreements with cannabis establishment employers in this state, and the agreement or agreements are still in effect when the union applies; or
4. has spent resources as part of one or more attempts to organize and represent cannabis workers employed at cannabis establishments in the state, which attempt or attempts remain active on the date of the labor union's application.

Additionally, the labor union must also attest that, for the three years immediately before applying, the union:

1. has filed the labor organization annual report required under federal law (29 U.S.C. § 431(b)),
2. has audited financial reports, and
3. was governed by a written constitution or bylaws.

Finally, the unions must attest that they:

1. are affiliated with regional or national associations of unions, including central labor councils;
2. are overseen by officers elected by secret ballot or otherwise in a manner consistent with federal law;
3. are free from domination or interference by any employer; and
4. have not received any improper assistance or support from any employer.

Notifying DCP of Certain Changes

The act requires a labor union to submit to DCP within 30 days, and in a form and manner DCP prescribes, (1) any changes in the above information to correct or update and (2) a notice when the union no longer satisfies the criteria set above. In the latter case, DCP must then remove the labor union from the list.

§ 41 — PROVIDING POLICIES AND PROCEDURES TO LICENSEES

Requires the DCP commissioner to provide, to each cannabis licensee, policies and procedures issued to carry out RERACA's purposes and protect public health and safety

By law, the DCP commissioner must adopt regulations to carry out RERACA's purposes and protect public health and safety. The law requires the commissioner to issue policies and procedures to implement RERACA before the regulations are adopted. And he must post the policies and procedures on the DCP website and submit them to the secretary of the state for posting on the eRegulations System.

The act requires the commissioner to also provide the policies and procedures, as he prescribes, to each licensee.

§ 43 — ADVERTISEMENTS

Allows certain professional services to advertise cannabis or cannabis-related services; expands the billboard prohibition of advertising between certain hours to all billboards; allows certain outdoor business signs near certain buildings

Professional Services

Prior law allowed only cannabis establishments to advertise any cannabis or cannabis-related services in Connecticut. The act also allows a person who provides professional services related to cannabis purchases, sales, or use to advertise cannabis or cannabis-related services.

Billboards

Prior law prohibited cannabis establishments from advertising by means of an electronic or illuminated billboard between the hours of 6:00 a.m. and 11:00 p.m. The act expands this prohibition to include all billboards, not just electronic or illuminated ones.

Outdoor Sign Exemption

Prior law exempted certain outdoor business signs posted at a cannabis establishment from the law's (1) required warning against underage use and (2) audience requirement (i.e., ascertaining that at least 90% of the audience is expected to be at least age 21). The act additionally exempts these signs from the law's prohibition on advertising cannabis or cannabis products or paraphernalia in any physical form visible to the public within 500 feet from certain buildings (i.e., elementary or secondary school grounds, recreation centers or facilities, child care centers, playgrounds, public parks, and libraries).

§ 45 — MANUFACTURER HEMP

Requires manufacturer hemp to be tested in accordance with the laboratory testing standards; allows manufacturers to have a sample retested; requires manufacturers to maintain records according to any policies, procedures, or regulations needed to implement RERACA; prohibits manufacturer hemp products containing synthetic cannabinoids from being offered for sale; allows the DCP commissioner to summarily suspend credentials for certain unauthorized sales; requires certain warnings and disclosures on manufacturer hemp; makes it a CUTPA violation to violate certain manufacturer hemp provisions

Laboratory Standards

By law, manufacturer hemp (i.e., intended for human ingestion, inhalation, absorption, or other internal consumption) must be tested by an independent testing laboratory in Connecticut. Prior law required that the laboratory test each sample for microbiological contaminants, mycotoxins, heavy metals, and pesticide chemical residue, and for purposes of conducting an active ingredient analysis, if applicable, as determined by the DCP commissioner. The act instead requires the samples to be tested according to the laboratory testing standards set in the policies,

procedures, and regulations the commissioner adopts.

By law, the DCP commissioner must adopt regulations, policies, and procedures on various cannabis issues, including laboratory standards (CGS § 21a-421j).

Retesting

Under prior law, if a tested sample failed certain tests the manufacturer had to dispose of the entire batch from which it was taken. The act instead allows manufacturers to have the sample retested and reanalyzed and, if the results are satisfactory, use the hemp batch for manufacturing, processing, and sale.

Under the act, if a sample does not pass the microbiological, mycotoxin, heavy metal, or pesticide chemical test, the manufacturer licensee, if it chooses not to dispose of the batch at this stage, must (1) retest and reanalyze the hemp from which the sample was taken or (2) remediate the batch through a DCP-approved remediation plan sufficient to ensure public health and safety. For retesting, the manufacturer must have an employee from the same laboratory randomly select another sample from the same hemp batch. If the sample used to retest or reanalyze the hemp yields satisfactory results for all required testing, an employee from a different laboratory must randomly select a different sample from the same hemp batch for testing. If both samples yield satisfactory results for all required testing the hemp batch must be released for manufacturing, processing, and sale.

For remediation plans that are submitted to and approved by the DCP commissioner, the manufacturer can have any laboratory test the remediated sample and then a different laboratory must perform the final testing under substantially similar procedures as retesting.

Under the act, if the manufacturer does not retest, remediate, or pass subsequent laboratory testing then, as under prior law, it must dispose of the entire batch from which the sample was taken following DCP-established procedures.

Recordkeeping

Prior law required manufacturers to maintain records required by federal law and state law and regulations on hemp manufacturers. The act also requires them to maintain records according to any policies, procedures, or regulations the DCP commissioner adopts to implement RERACA. As under existing law, these records must be available to DCP immediately upon request and in electronic format, if available.

Advertising Restrictions

Prior law prohibited any claim of health impacts, medical effects, or physical or mental benefits on any advertising for, labeling of, or marketing of manufacturer hemp products. The act specifies that this applies regardless of whether the products were manufactured in Connecticut or elsewhere. By law, a violation is deemed a violation of the Connecticut Unfair Trade Practices Act (CUTPA).

By law, CUTPA prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the DCP commissioner to issue regulations defining an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than $10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to $5,000 for willful violations and up to $25,000 for a restraining order violation.

Suspension

By law, manufacturer hemp product sellers do not need to be licensed if they only engage in the following activities:

1. retail or wholesale sale of manufacturer hemp products that require no further hemp manufacturing and that are obtained from someone authorized by law in Connecticut or another jurisdiction to manufacture hemp,
2. acquiring manufacturer hemp products only for resale, or
3. retail sale of manufacturer hemp products that are authorized under federal or state law.

The act allows the DCP or Department of Revenue Services commissioner to summarily suspend any credential their respective department issues to anyone selling manufacturer hemp products in violation of the provision above and those below. The suspension must be done in accordance with the Uniform Administrative Procedure Act's procedures for licensing matters (CGS § 4-182).

The act also makes a violation of this provision, and the manufacturer hemp provisions below, a CUTPA violation.

Synthetic Cannabinoids

The act prohibits manufacturer hemp products containing synthetic cannabinoids from being offered for sale in Connecticut or to a Connecticut consumer. By law, "synthetic cannabinoid" means any material, compound, mixture, or preparation containing any quantity of a substance having a psychotropic response primarily by agonist activity at cannabinoid-specific receptors affecting the central nervous system that is produced artificially and not derived from an organic source that naturally contains cannabinoids, unless listed in another controlled substance schedule (CGS § 21a-240(62)).

Packaging and Labeling

Under the act, no manufacturer hemp product offered for sale in Connecticut, or to a Connecticut consumer, may be packaged, presented, or advertised in a way that is likely to mislead a consumer by incorporating any statement, brand, design, representation, picture, illustration, or other depiction that:

1. bears a reasonable resemblance to trademarked or characteristic packaging

of (a) cannabis offered for sale by a licensed Connecticut cannabis establishment or on tribal land by a tribal credentialed cannabis entity, or (b) a commercially available product other than a cannabis product; or

2. implies that the product (a) is a cannabis product, (b) contains a total THC concentration greater than 0.3% on a dry-weight basis, or (c) is a high-THC hemp product.

Food or Other Product for Human Ingestion. The act prohibits manufacturer hemp products that are a food, beverage, oil, or other product intended for human ingestion to be distributed or sold in Connecticut unless the package or package label contains the following:

1. a scannable barcode, website address, or quick response code that is linked to the certificate of analysis of the final form product batch by an independent testing laboratory and discloses certain information about the product (see below);
2. the product's expiration or best by date, if applicable;
3. a clear and conspicuous statement disclosing certain warnings (see below); and
4. if the product is intended to be inhaled, a clear and conspicuous warning that smoking or vaporizing is hazardous to human health.

The electronic notice must disclose the:

1. product's name;
2. product's manufacturer, packer, and distributor's name, address, and telephone number, as applicable;
3. batch number, which must match the batch number on the package or label; and
4. concentration of cannabinoids in the product, including total THC and any cannabinoids or active ingredients comprising at least 1% of the product.

The warnings must be that:

1. children or those who are pregnant or breastfeeding should avoid using the product before consulting with a health care professional about the product's safety,
2. products containing cannabinoids should be kept out of reach of children, and
3. the FDA has not evaluated the product for safety or efficacy.

Cosmetics. The act prohibits manufacturer hemp products that are topical, soap, or cosmetic from being distributed or sold in Connecticut unless the product has within the package or on a label affixed to the package:

1. a substantially similar electronic notice as required for food (see above);
2. the product's expiration or best by date, if applicable; and
3. a clear and conspicuous statement disclosing the following: "THE FDA HAS NOT EVALUATED THIS PRODUCT FOR SAFETY OR EFFICACY.".

(PA 23-166, § 7, delays the effective date of these manufacturer hemp provisions from July 1, 2023, to October 1, 2023.)

§ 49 — CANNABIS OMBUDSMAN

Establishes the Office of the Cannabis Ombudsman within the healthcare advocate's office, within available appropriations; among other things, requires the ombudsman to represent the interests of qualifying medical marijuana patients and caregivers

The act establishes, within available appropriations, an Office of the Cannabis Ombudsman, which is in the healthcare advocate's office for administrative purposes only. The Office of the Cannabis Ombudsman is under the direction of a cannabis ombudsman, who the healthcare advocate must appoint. The appointed individual must be familiar with the palliative use of marijuana and the medical cannabis system.

The ombudsman office must:

1. represent the interests of qualifying patients and caregivers and identify, investigate, and resolve complaints made by them or on their behalf;
2. monitor the palliative use of marijuana as allowed under the medical marijuana laws;
3. report actions, inactions, or decisions that may adversely affect qualifying patients' health, safety, welfare, or rights;
4. analyze, comment on, facilitate public comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other government policies and actions concerning qualifying patients' and caregivers' health, safety, welfare, and rights; and
5. recommend any changes to the laws, regulations, policies, and actions described above that the office deems appropriate to, among other things, improve the state's palliative marijuana market.

EFFECTIVE DATE: Upon passage

§ 54 — TASK FORCE ON CERTAIN SALES OF HOME-GROWN CANNABIS

Establishes a 13-member task force to study the potential health, safety, and financial impact of allowing people who cultivate cannabis at home to sell, at retail, the cannabis at events

The act establishes a 13-member task force to study the potential health, safety, and financial impact of allowing individuals who are authorized to cultivate cannabis in their residences to sell, at retail, the cannabis at events organized, at least in part, to facilitate these sales. The task force must (1) examine the impact that the sales would likely have on the state, including the impact on residents and the existing medical and recreational cannabis markets, and (2) if the task force recommends that the state authorize these sales, recommend any legislation needed to authorize and regulate the sales.

Under the act, the House speaker, Senate president pro tempore, and governor each must appoint two members and the House and Senate majority and minority leaders each must appoint one. Additionally, the DCP, public health, and mental health and addiction services commissioners or their designees serve as ex-officio members. The legislative appointments may be legislators. All initial task force appointments must be made by July 26, 2023. The appointing authority must fill any vacancy.

The act requires the House speaker and Senate president pro tempore to select

the chairpersons, who must schedule the first task force meeting to be held by August 25, 2023. Under the act, the General Law Committee's administrative staff must serve as the task force's administrative staff.

By January 1, 2024, the task force must submit a report on its findings and recommendations to the General Law Committee. The task force terminates on the date it submits the report or January 1, 2024, whichever is later.

EFFECTIVE DATE: Upon passage